

Calendar No. 53

103D CONGRESS
1ST SESSION

S. 714

[Report No. 103-36]

A BILL

To provide funding for the resolution of failed savings associations, and for other purposes.

APRIL 1 (legislative day, MARCH 3), 1993
Read twice and placed on the calendar

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IN THE SENATE OF THE UNITED STATES

APRIL 1 (legislative day, MARCH 3), 1993

Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs,
reported the following original bill; which was read twice and placed on
the calendar

A BILL

To provide funding for the resolution of failed savings
associations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Thrift Depositor Pro-
5 tection Act of 1993”.

1 **SEC. 2. THRIFT RESOLUTION FUNDING PROVISIONS.**

2 Section 21A(i) of the Federal Home Loan Bank Act
3 (12 U.S.C. 1441a(i)) is amended by adding at the end
4 the following new paragraphs:

5 “(4) **ADDITIONAL FUNDING.**—In addition to
6 amounts provided under paragraphs (2) and (3), the
7 Secretary of the Treasury shall pay to the Corpora-
8 tion, out of moneys in the Treasury not otherwise
9 appropriated, such amounts as may be necessary,
10 not to exceed \$28,000,000,000, to carry out the pur-
11 poses of this section.

12 “(5) **RELEASE OF RTC FUNDS CONTINGENT ON**
13 **CERTIFICATION BY THE CHAIRPERSON OF THE**
14 **THRIFT DEPOSITOR PROTECTION OVERSIGHT**
15 **BOARD.**—

16 “(A) **FUNDS IN EXCESS OF**
17 **\$10,000,000,000.**—No funds in excess of
18 \$10,000,000,000 of the amount appropriated in
19 paragraph (4) shall be paid by the Secretary of
20 the Treasury to the Corporation until the
21 Chairperson of the Thrift Depositor Protection
22 Oversight Board (hereafter in this subsection
23 referred to as the ‘Chairperson’) has certified
24 under paragraph (6) to the Congress and, if re-
25 quested by the Committee on Banking, Hous-
26 ing, and Urban Affairs of the Senate or the

1 Committee on Banking, Finance and Urban Af-
2 fairs of the House of Representatives, has ap-
3 peared to testify, that a program that meets the
4 criteria specified in paragraph (6) has been put
5 into place to curb waste, fraud, and abuse at
6 the Corporation.

7 “(B) FUNDS IN EXCESS OF
8 \$20,000,000,000.—No funds in excess of
9 \$20,000,000,000 of the amount appropriated in
10 paragraph (4) shall be paid by the Secretary of
11 the Treasury to the Corporation unless the
12 Chairperson has made a second certification to
13 the Congress and, if requested by the Commit-
14 tee on Banking, Housing, and Urban Affairs of
15 the Senate or the Committee on Banking, Fi-
16 nance and Urban Affairs of the House of Rep-
17 resentatives, has appeared to testify, that the
18 program described in subparagraph (A) contin-
19 ues to meet the criteria specified in paragraph
20 (6). The Chairperson shall make the second cer-
21 tification within 30 days of the date on which
22 such additional funds are needed.

23 “(6) CERTIFICATION.—The Chairperson shall
24 certify to the Congress that—

1 “(A) the Corporation has formulated and
2 is implementing, in a manner acceptable to the
3 Chairperson, a program to—

4 “(i) strengthen internal controls
5 against waste, fraud, and abuse;

6 “(ii) respond to problems flagged by
7 auditors;

8 “(iii) prepare a comprehensive busi-
9 ness plan for the balance of the cleanup;

10 “(iv) expand opportunities for minori-
11 ties and women;

12 “(v) improve the professional liability
13 section of the Corporation;

14 “(vi) improve management informa-
15 tion systems;

16 “(vii) strengthen contractor systems
17 and contractor oversight; and

18 “(viii) provide for the appointment of
19 a chief financial officer who does not have
20 other operating responsibilities; and

21 “(B) the Thrift Depositor Protection Over-
22 sight Board has provided for the appointment
23 of an audit committee.

24 The certification shall be accompanied by a report
25 that describes in detail the implementation of the

1 program specified in the certification, including the
2 specific measures that have been and are being un-
3 dertaken to correct the problems identified.

4 “(7) INABILITY TO CERTIFY.—If the Chair-
5 person is unable to make the certification required
6 by paragraph (6), the Chairperson shall notify the
7 Congress and the Corporation of the reasons for the
8 inability to provide the certification. Upon such noti-
9 fication, the Corporation shall—

10 “(A) correct any deficiencies in the pro-
11 gram described in paragraph (6), or explain
12 why it is not possible to take such action; and

13 “(B) request that the Chairperson provide
14 the certification.”.

15 **SEC. 3. SAVINGS ASSOCIATION INSURANCE FUNDING PRO-**
16 **VISIONS.**

17 Section 11(a)(6) of the Federal Deposit Insurance
18 Act (12 U.S.C. 1821(a)(6)) is amended—

19 (1) by striking subparagraph (E) and inserting
20 the following:

21 “(E) TREASURY PAYMENTS TO FUND.—To
22 provide sufficient funding for the Savings Asso-
23 ciation Insurance Fund to carry out subpara-
24 graph (F), the Secretary of the Treasury shall
25 pay to such Fund not later than September 30,

1 2000, out of moneys in the Treasury not other-
2 wise appropriated, such amounts as the Sec-
3 retary may find necessary, not to exceed
4 \$17,000,000,000.”;

5 (2) in subparagraph (F)—

6 (A) by striking “The Secretary” and in-
7 serting “From amounts provided in subpara-
8 graph (E), the Secretary”; and

9 (B) by striking “any additional” and in-
10 serting “such”;

11 (3) by striking subparagraph (H) and inserting
12 the following:

13 “(H) DISCRETIONARY RTC PAYMENTS.—
14 Upon application by the Corporation and not
15 later than two years from the date on which the
16 Resolution Trust Corporation terminates pursu-
17 ant to section 21A(m) of the Federal Home
18 Loan Bank Act, the Secretary of the Treasury
19 may pay to the Savings Association Insurance
20 Fund to carry out subparagraph (F), or to the
21 FSLIC Resolution Fund, any funds made avail-
22 able by section 21A(i) of the Federal Home
23 Loan Bank Act to be paid to the Resolution
24 Trust Corporation that the Secretary of the
25 Treasury determines are not required to meet

1 the obligations of the Resolution Trust Cor-
2 poration.”;

3 (4) by striking subparagraph (J) and inserting
4 the following:

5 “(J) RELEASE OF SAIF FUNDS CONTIN-
6 GENT ON CERTIFICATION BY THE SECRETARY
7 OF THE TREASURY.—

8 “(i) INITIAL CERTIFICATION.—No
9 funds appropriated in subparagraph (E)
10 shall be paid by the Secretary of the
11 Treasury to the Savings Association Insur-
12 ance Fund until the Secretary of the
13 Treasury, in consultation with the Chair-
14 man of the Federal Deposit Insurance Cor-
15 poration, has certified to the Congress and,
16 if requested by the Committee on Banking,
17 Housing, and Urban Affairs of the Senate
18 or the Committee on Banking, Finance
19 and Urban Affairs of the House of Rep-
20 resentatives, has appeared to testify,
21 that—

22 “(I) such additional funds are
23 needed to meet the obligations of such
24 Fund to depositors or to comply with

1 the minimum net worth requirements
2 set forth in subparagraph (F);

3 “(II) such Fund is being oper-
4 ated in an efficient manner;

5 “(III) such Fund has imple-
6 mented a program to prevent waste,
7 fraud, and abuse in its operations;
8 and

9 “(IV) the Corporation is taking
10 action to correct problems identified
11 by the Comptroller General of the
12 United States in the most recent
13 audit of such Fund conducted under
14 section 17(d), or that such action is
15 not necessary or appropriate.

16 “(ii) SECOND CERTIFICATION.—No
17 funds in excess of \$10,000,000,000 of the
18 amount appropriated in subparagraph (E)
19 shall be paid by the Secretary of the
20 Treasury to the Savings Association Insur-
21 ance Fund until the Secretary of the
22 Treasury, in consultation with the Chair-
23 man of the Federal Deposit Insurance Cor-
24 poration, has certified to the Congress and,
25 if requested by the Committee on Banking,

1 Housing, and Urban Affairs of the Senate
2 or the Committee on Banking, Finance
3 and Urban Affairs of the House of Rep-
4 resentatives, has appeared to testify,
5 that—

6 “(I) such additional funds are
7 needed to meet the obligations of such
8 Fund to depositors or to comply with
9 the minimum net worth requirements
10 set forth in subparagraph (F);

11 “(II) such Fund is being oper-
12 ated in an efficient manner;

13 “(III) such Fund is implementing
14 a program to prevent waste, fraud,
15 and abuse in its operations; and

16 “(IV) the Corporation is taking
17 action to correct problems identified
18 by the Comptroller General of the
19 United States in the most recent
20 audit of such Fund conducted under
21 section 17(d), or that such action is
22 not necessary or appropriate.

23 The Secretary shall make the second cer-
24 tification within 30 days of the date on

1 which such additional funds are needed.”;

2 and

3 (5) by adding at the end the following:

4 “(K) INABILITY TO CERTIFY.—If the Sec-
5 retary of the Treasury is unable to make the
6 certification required by subparagraph (J), the
7 Secretary shall notify the Congress and the
8 Corporation of the reasons for the inability to
9 provide the certification. Upon such notifica-
10 tion, the Corporation shall—

11 “(i) correct any deficiencies or explain
12 why it is not possible to take such action;
13 and

14 “(ii) request that the Secretary pro-
15 vide a certification in accordance with sub-
16 paragraph (J).”.

17 **SEC. 4. APPEALS PROCEDURE.**

18 Section 21A(b)(4) of the Federal Home Loan Bank
19 Act (12 U.S.C. 1441a(b)(4)) is amended by adding at the
20 end the following new subparagraph:

21 “(C) APPEALS.—The Chairperson of the
22 Thrift Depositor Protection Oversight Board
23 shall certify to the Committee on Banking,
24 Housing, and Urban Affairs of the Senate and
25 the Committee on Banking, Finance and Urban

1 Affairs of the House of Representatives that the
2 Corporation has formulated and is implement-
3 ing, in a manner acceptable to the Chairperson,
4 a program to provide an appeals process for
5 business and commercial borrowers to appeal
6 decisions by the Corporation (when acting as a
7 conservator) to terminate or otherwise adversely
8 affect credit or loan agreements, lines of credit,
9 and similar arrangements with such borrowers
10 who have not defaulted on their obligations.”.

11 **SEC. 5. FINAL REPORT ON RTC AND SAIF FUNDING.**

12 (a) IN GENERAL.—The Secretary of the Treasury
13 shall prepare and transmit to the Committee on Banking,
14 Housing, and Urban Affairs of the Senate and the Com-
15 mittee on Banking, Finance and Urban Affairs of the
16 House of Representatives final reports relating to the use
17 of the funds provided by this Act to the Resolution Trust
18 Corporation and the Savings Association Insurance Fund.
19 Each such report shall contain a detailed description of
20 the purposes for which the funds were used.

21 (b) TIME FOR SUBMISSION.—The reports described
22 in subsection (a) shall be transmitted—

23 (1) not later than 45 days after the final ex-
24 penditure of funds under this Act by the Resolution
25 Trust Corporation; and

1 (2) not later than 45 days after the final ex-
2 penditure of funds under this Act by the Savings As-
3 sociation Insurance Fund.